IN THE UNITED STATES DISTRICT COURT FOR THE

WESTERN DISTRICT OF OKLAHOMA

MARILYN A. POTTER,   )
)
            Plaintiff,   )
)
        vs.   )   No. CIV-10-579-C
)
MICHAEL J. ASTRUE,   )
Commissioner of Social Security   )
Administration,   )
)
          Defendant.   )

ORDER ADOPTING REPORT AND RECOMMENDATION

This action for judicial review of the Commissioner's denial of disability insurance benefits and supplemental security income benefits was referred for initial proceedings to United States Magistrate Judge Doyle W. Argo, consistent with 28 U.S.C. § 636(b)(1)(B). Judge Argo entered a Report and Recommendation ("R&R") on January 14, 2011, recommending that the decision of the Commissioner be affirmed. Plaintiff, through counsel, has timely filed an objection to this report, and the Court therefore considers the matter de novo.

In his thorough and well-reasoned Report and Recommendation, Judge Argo sets out the relevant facts and prevailing law, and no purpose would be served to repeat those here. Plaintiff's only objection is that certain medical records were received after the Administrative Law Judge's ("ALJ") decision and should not be weighed by the Magistrate

Judge or this Court. To the contrary, the R&R demonstrates that only one record was received that could have been considered by the ALJ, and that provided no change from previous records from the same physician. The bulk of the evidence to which Plaintiff complains was available to the Appeals Council and considered by it. Thus, the role of this Court is to review the evidence considered and determine if it amounts to substantial evidence to support the conclusion. Certainly in this case it does, for the reasons stated by the Magistrate Judge.

Accordingly, the Court adopts, in its entirety, the Report and Recommendation of the Magistrate Judge, and for the reasons stated therein, the decision of the Commissioner in this case is affirmed and a judgment will enter.

IT IS SO ORDERED this 17th day of February, 2011.

ROBIN J. CAUTHRON
United States District Judge